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EXAMINER

AVILA, STEPHEN P

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte WILLIAM P. FELL and WILLIAM P. O'HARA

Appeal 2007-4056
Application 10/696,418
Technology Center 3600

Decided: February 25, 2008

Before TERRY J. OWENS, JENNIFER D. BAHR, and JOSEPH A.
FISCHETTI, *Administrative Patent Judges*.

BAHR, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

William P. Fell et al. (Appellants) appeal under 35 U.S.C. § 134 from the Examiner's decision rejecting claims 9-15 and 19. Claims 1-8 have been canceled and claims 21 through 27 have been allowed. Claims 16-18 and 20 are objected to as being dependent from a rejected base claim. We have jurisdiction over this appeal under 35 U.S.C. § 6 (2002).

THE INVENTION

Appellants' invention is directed towards a jet powered steering system for a boat outboard motor that uses a directional nozzle which allows the boat to be steered without having to turn the entire motor (Spec. 2, ll. 11-14). The steering system includes a jet pump drive 102 of a motor 101, an adaptor ring 5, a directional nozzle 15 that is connected by cable 2 to shaft 33, and a reverse thrust cap 20 that is connected by cable 3 to reverse thrust handle 36 (Spec. 4, ll. 17-20; Spec. 7, ll. 5-12; and figs. 2 and 7). By pushing or pulling on cable 2, the directional nozzle moves right or left, thereby steering the boat to steer right or left (Spec. 6, ll. 2-5). Similarly, by pulling or pushing on cable 3, the reverse thrust cap 20 is moved up or down. When moving the reverse thrust cap 20 down over the directional nozzle 15 the jet output is forced to strike the reverse thrust cap 20 and thereby move the boat in the reverse direction of normal thrust (Spec. 6, ll. 6-17).

Claim 9 is illustrative of the claimed invention and reads as follows:

9. A steering system for a boat having an outboard motor with a jet drive output attached to a lower unit comprising:
 - a) an adaptor ring, attached to said lower unit surrounding said jet drive output;
 - b) a directional nozzle;
 - c) a means for pivotably mounting said directional nozzle on said adaptor ring such that said directional nozzle extends backward therefrom; and

d) a means for pivoting said directional nozzle in a horizontal plane.

THE REJECTIONS

The Examiner relies upon the following as evidence of unpatentability:

Buehler	US 3,071,102	Jan. 1, 1963
Chronic	US 3,089,454	May 14, 1963
Giacosa	US 3,842,787	Oct. 22, 1974
Ito et al.	US 5,967,868	Oct. 19, 1999

The following rejections are before us for review:

Claims 9-11 stand rejected under 35 U.S.C. § 102(b) as anticipated by Giacosa.

Claim 12 stands rejected under 35 U.S.C. § 103(a) as unpatentable over Giacosa in view of Chronic.

Claims 13 and 19 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Giacosa in view of Buehler.

Claim 14 stands rejected under 35 U.S.C. § 103(a) as unpatentable over Giacosa in view of Buehler and in further view of Chronic.

Claim 15 stands rejected under 35 U.S.C. § 103(a) as unpatentable over Giacosa in view of Ito et al.

The Examiner provides reasoning in support of the rejections in the Answer (mailed April 14, 2006).¹ Appellants present opposing arguments in the Appeal Brief (filed June 17, 2005). A Reply Brief has not been filed.

¹ The Examiner's Answer mailed on September 1, 2005 has been vacated by the Examiner (Ans. 1).

OPINION

The Anticipation Rejection

Appellants argue claims 9-11 rejected under 35 U.S.C. § 102(b) together as a group. Therefore, in accordance with 37 C.F.R. 41.37(c)(1)(vii), we have selected claim 9 as the representative claim to decide the appeal of the anticipation rejection, with claims 10 and 11 standing or falling with claim 9.

The issue presented in this appeal is whether Appellants have demonstrated that the Examiner erred in determining that the subject matter of claims 9-11 is anticipated by Giacosa.

Appellants' argument as to why Giacosa does not anticipate claim 9 is that Giacosa does not disclose (1) an adaptor ring or (2) brackets (Br. 7). "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 (1987).

The Examiner finds that Figures 1 and 3 of Giacosa disclose a jet powered steering system for a boat outboard motor including an adaptor ring (the part defined by surfaces P₁, P₂), a directional nozzle (deflection nozzle 17), pivoting means (vertical hinges 18, 19), means for pivoting the directional nozzle in a horizontal plane (lever 22), and means for reversing the jet drive thrust (curved hood 23) (Ans. 3).

With regard to Appellants' first argument we agree with the Examiner that Giacosa discloses an adaptor ring. Specifically in Figure 3, we find that Giacosa shows a separate and distinct component connecting diffuser 15 to deflection nozzle 17. Accepting Appellants' proffered definition of an

“adaptor ring” as an “...’annular member’ that makes something ‘fit or suitable’” (Br. 9-10), we find that the component connecting diffuser 15 to deflection nozzle 17 is an “adaptor ring” because it is annular and permits the diffuser 15 to be connected to the deflection nozzle 17. We find evidence of the existence of an adaptor ring in the steering system of Giacosa from the change in direction of the hatching used to show the cross sections of the diffuser 15, the adaptor ring, and the deflection nozzle 17 (figs. 2 and 3). Further, we note that a distinct surface, as drawn by a separate line, exists between the diffuser 15 and the adaptor ring, hence indicating that the adaptor ring is a separate and distinct component. Furthermore, the diffuser 15 and the adaptor ring include edge flanges that are known to be used for orientation and connection of separate and distinct components. Hence, we agree with the Examiner that Giacosa discloses an adaptor ring connecting diffuser 15 to deflection nozzle 17.

Regarding Appellants’ second argument, we agree with the Examiner that “none of the claims under appeal contain the bracket limitations” (Ans. 5). Hence, we find Appellants’ argument without merit.

For the foregoing reasons, Appellants’ arguments do not persuade us that the Examiner erred in rejecting claim 9 as anticipated by Giacosa. The rejection of claims 9 through 11 is sustained.

The Obviousness Rejections

Appellants’ arguments in favor of patentability of claims 12-15 and 19 as unpatentable over various combinations of the teachings of Giacosa in view of Buehler, Chronic, and Ito (Br. 11-13) simply rely on the arguments asserted as to claim 9 and are thus unpersuasive for the reasons discussed

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above with respect to claim 9. We therefore affirm the rejections of these claims as well for the reasons discussed above with respect to claim 9. The rejections are sustained.

SUMMARY

The decision of the Examiner to reject claims 9-15 and 19 is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a). *See* 37 C.F.R. § 1.136(a)(1)(iv) (2006).

AFFIRMED

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